

ESTTA Tracking number: **ESTTA680677**

Filing date: **06/29/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92060906
Party	Defendant Joseph J. Bisogno
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Date	06/29/2015
Attachments	Answer to Petition for Cancellation.pdf(173870 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

OREGANO’S PIZZA BISTRO, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92060906
	)	
JOSEPH J. BISOGNO,	)	Mark: LEGALIZE MARINARA
	)	
Registrant.	)	

**ANSWER TO PETITION FOR CANCELLATION**

Registrant, Joseph J. Bisogno (“Registrant”) hereby responds as follows to the Petition for Cancellation (“Petition”) by Oregano’s Pizza Bistro, Inc. (“Petitioner”) regarding U.S. Trademark Registration No. 4,219,108 for LEGALIZE MARINARA. Registrant is without knowledge of information sufficient to form a belief as to the truth of the Petitioner’s contact information given in the initial unnumbered paragraph and therefore denies same, and demands strict proof thereof. Registrant denies the remaining allegations in the initial unnumbered paragraph.

**FACTUAL BACKGROUND**

1. Registrant is without sufficient information to admit or deny the allegation in Paragraph 1 of the Petition and, therefore, denies those allegations.
2. Registrant admits only that the U.S. Patent and Trademark Office records reflect the given dates application in Paragraph 2 of the Petition. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies same.
3. Registrant admits the allegations of Paragraph 3.

4. Registrant admits only that the U.S. Patent and Trademark Office records reflect the given dates of the Office Action in Paragraph 4 of the Petition. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies same.

5. Registrant is without sufficient information to admit or deny the allegations, and therefore denies the allegations of Paragraph 5.

**COUNT ONE: Cancellation Based on a Likelihood of Confusion**

6. Paragraph 6 sets forth no allegations to which a response is required. To the extent any response is required, Registrant incorporates by reference its responses to Paragraphs 1 - 5.

7. Registrant is without sufficient information to admit or deny the allegations, and therefore denies the allegations of Paragraph 7.

8. Registrant admits only that the U.S. Patent and Trademark Office records reflect on the given dates an Office Action was issued as alleged in Paragraph 8 of the Petition. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and therefore denies same, and denies the accuracy of the Examiner's conclusions.

9. Registrant denies the allegations of Paragraph 9.

**COUNT TWO: Cancellation for Fraud Based on Non-Use**

10. Paragraph 10 sets forth no allegations to which a response is required. To the extent a response is required, Registrant incorporates by reference its answers to Paragraphs 1 through 9.

11. Registrant admits the allegations of Paragraph 11.
12. Registrant admits the allegations of Paragraph 12.
13. Registrant admits that the words “Mapleton Café” on the specimen refer to the Mapleton Café in Mapleton, Kansas; Registrant denies the remaining allegations of Paragraph 13.
14. Registrant admits he does not presently own Mapleton Café; denies the remaining allegations of Paragraph 14.
15. Registrant denies the allegations of Paragraph 15.
16. Registrant denies the allegations of Paragraph 16.
17. Registrant denies the allegations of Paragraph 17.
18. Registrant denies the allegations of Paragraph 18.
19. Registrant denies the allegations of Paragraph 19.
20. Registrant denies the allegations of Paragraph 20.
21. Registrant denies the allegations of Paragraph 21.
22. Registrant denies the allegations of Paragraph 22.

**COUNT THREE: Cancellation Based on Non-Use**

23. Paragraph 23 sets forth no allegations to which a response is required. To the extent any response is required, Registrant incorporates by reference its answers to Paragraphs 1 through 22.
24. Registrant denies the allegations in Paragraph 24.
25. Registrant denies the allegations of Paragraph 25.
26. Registrant denies the allegations of Paragraph 26.

27. Subject to the specific answers provided above, any and all remaining allegations in the Petition for Cancellation are herein expressly denied.

**Affirmative Defenses**

1. Registrant's mark, when used on Registrant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Registrant with Petitioner, or as to the origin, sponsorship, or approval of Registrant's goods by Petitioner.

2. There is no evidence of actual confusion.

3. Registrant reserves its rights to assert counterclaims and to seek cancellation of any registered marks asserted by Petitioner as part of its grounds for opposing registration of Registrant's mark, as may be determined through discovery.

WHEREFORE, Registrant respectfully requests that Board dismiss the Petition and that U.S. Trademark Registration No. 4,219,108 for LEGALIZE MARINARA be sustained.

Dated: June 29, 2015

Respectfully submitted,

HOVEY WILLIAMS LLP

By s/ Michael Elbein

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ATTORNEYS FOR REGISTRANT  
JOSEPH J. BISOGNO

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was deposited with the United States Postal Service as first class mail, postage prepaid, on this 29th day of June, 2015 to:

Candice E. Kim, Esq.  
GREENBERG TRAUIG, LLP  
1840 Century Park East, Suite 1900  
Los Angeles, California 90067

ATTORNEYS FOR PETITIONER  
OREGANO'S PIZZA BISTRO, INC.

s/ Michael Elbein